

by the conflict of interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. Thus, an employee who wishes to act as agent or attorney for, or otherwise represent his parents, spouse, child, or any person for whom, or any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters must obtain the approval required by law of the Government official responsible for the employee's appointment in addition to the regulatory approval required in this section.

(c) *Procedure for requesting approval.*

(1) The approval required by paragraph (a) of this section shall be requested by e-mail or other form of written correspondence in advance of engaging in outside employment as defined in paragraph (b) of this section.

(2) The request for approval to engage in outside employment or certain other activities shall set forth, at a minimum:

- (i) The name of the employer or organization;
- (ii) The nature of the legal activity or other work to be performed;
- (iii) The title of the position; and
- (iv) The estimated duration of the outside employment.

(3) Upon a significant change in the nature or scope of the outside employ-

ment or in the employee's official position within the MSPB, the employee must, within 7 calendar days of the change, submit a revised request for approval.

(d) *Standard for approval.* Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(e) *DAEO's and alternate DAEO's responsibilities.* The MSPB DAEO or alternate DAEO may issue instructions or manual issuances governing the submission of requests for approval of outside employment. The instructions or manual issuances may exempt categories of employment from the prior approval requirement of this section based on a determination that employment within those categories of employment would generally be approved and is not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The DAEO or alternate DAEO may include in these instructions or issuances examples of outside employment that are permissible or impermissible consistent with this part and 5 CFR part 2635.

## CHAPTER LXV—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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## PART 7501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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AUTHORITY: 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803, 2635.807.

SOURCE: 77 FR 46604, Aug. 6, 2012, unless otherwise noted.

### § 7501.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Housing and Urban Development (HUD or Department) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. Employees are required to comply with 5 CFR part 2635, this part, and any additional rules of conduct that the Department is authorized to issue.

### § 7501.102 Definitions.

For purposes of this part, and otherwise as indicated, the following definitions shall apply:

*Affiliate* means any entity that controls, is controlled by, or is under common control with another entity.

*Agency designee*, as used also in 5 CFR part 2635, means the Associate General Counsel for Ethics and Personnel Law, the Assistant General Counsel for the Ethics Law Division, and the HUD Regional Counsels.

*Agency ethics official*, as used also in 5 CFR part 2635, means the agency designees as specified above.

*Bureau* means the Office of the Inspector General.

*Bureau Ethics Counselor* means the General Counsel for the Bureau.

*Deputy Bureau Ethics Counselor* means the Bureau employee or employees who the Bureau Ethics Counselor has delegated responsibility to act under § 7501.106 for the Bureau.

*Designated Agency Ethics Official* (DAEO) means the General Counsel of HUD or the Deputy General Counsel for Operations in the absence of the General Counsel.

*Employment* means any compensated or uncompensated (including volunteer work for others while off-duty) form of non-federal activity or business relationship, including self-employment, that involves the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product.

### § 7501.103 Waivers.

The Designated Agency Ethics Official, or the Bureau Ethics Counselor for a Bureau employee may waive any provision of this part upon finding that the waiver will not result in conduct inconsistent with 5 CFR part 2635 and is not otherwise prohibited by law and that application of the provision is not necessary to ensure public confidence in the Department's impartial and objective administration of its programs. Each waiver shall be in writing and supported by a statement of the facts and findings upon which it is based and may impose appropriate conditions, such as requiring the employee's execution of a written disqualification statement. A waiver will be considered only in response to a written waiver request submitted to an agency ethics official. The waiver request should include:

- (a) The requesting employee's Branch, Unit, and a detailed description of his or her official duties;
- (b) The nature and extent of the proposed waiver;
- (c) A detailed statement of the facts supporting the request; and
- (d) The basis for the request, such as undue hardship or other exigent circumstances.

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### § 7501.104 Prohibited financial interests.

(a) *General requirement.* This section applies to all HUD employees except special Government employees. Except as provided in paragraph (b) of this section, the employee, or the employee's spouse or minor child, shall not directly or indirectly receive, acquire, or own:

(1) Federal Housing Administration (FHA) debentures or certificates of claim;

(2) A financial interest in a project, including any single family dwelling or unit, which is subsidized by the Department, or which is subject to a note or mortgage or other security interest insured by the Department. The definition of "financial interest" is found at 5 CFR 2635.403(c);

(3)(i) Any Department subsidy provided pursuant to Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), to or on behalf of a tenant of property owned by the employee or the employee's spouse or minor child. However, such subsidy is permitted when:

(A) The employee, or the employee's spouse or minor child acquires, without specific intent as through inheritance, a property in which a tenant receiving such a subsidy already resides;

(B) The tenant receiving such a subsidy lived in the rental property before the employee worked for the Department;

(C) The tenant receiving such a subsidy is a parent, child, grandchild, or sibling of the employee;

(D) The employee's, or the employee's spouse or minor child's, rental property has an incumbent tenant who has not previously received such a subsidy and becomes the beneficiary thereof; or

(E) The location of the rental property is in a Presidentially declared emergency or natural disaster area and the employee receives prior written approval from an agency designee.

(ii) The exception provided by paragraph (a)(3)(i) of this section continues only as long as:

(A) The tenant continues to reside in the property; and

(B) There is no increase in that tenant's rent upon the commencement of

subsidy payments other than normal annual adjustments under the Section 8 program.

(b) *Exception to prohibition for certain interests.* Nothing in this section prohibits the employee, or the employee's spouse or minor child from directly or indirectly receiving, acquiring, or owning:

(1) A financial interest in a publicly available or publicly traded investment fund that includes financial interests prohibited by paragraph (a)(2) of this section, so long as the employee neither exercises control nor has the ability to exercise control over the fund or the financial interests held in the fund;

(2) Mortgage insurance provided pursuant to section 203 of the National Housing Act (12 U.S.C. 1709) on the employee's principal residence and any one other single family residence. Employees must adhere to the procedures established by the Assistant Secretary for Housing—FHA Commissioner in order to obtain FHA insurance;

(3) Department-owned single family property. Employees must adhere to the procedures established by the Assistant Secretary for Housing—FHA Commissioner in order to purchase a HUD-held property;

(4) Employment compensation and benefit packages provided by the employer of an employee's spouse that include financial interests prohibited by paragraph (a)(2) of this section; or

(5) Government National Mortgage Association (GNMA) securities.

(c) *Reporting and divestiture.* An employee must report, in writing, to the appropriate agency ethics official, any interest prohibited under paragraph (a) of this section acquired prior to the commencement of employment with the Department or without specific intent, as through gift, inheritance, or marriage, within 30 days from the date of the start of employment or acquisition of such interest. Such interest must be divested within 90 days from the date reported unless waived by the Designated Agency Ethics Official in accordance with § 7501.103.

**§ 7501.105 Outside activities.**

(a) *Prohibited outside activities.* Subject to the exceptions set forth in paragraph (b) of this section, HUD employees, except special Government employees, shall not engage in:

(1) Employment with a business related to real estate or manufactured housing including, but not limited to, real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, title search services, construction, construction financing, land planning, or real estate development;

(2) The operation or management of investment properties to the extent that it rises to the level of a real estate-related business. HUD will determine whether an employee is operating or managing investment properties to an extent that it rises to the level of a real estate business based on the totality of the circumstances, and will consider whether the employee maintains an office; advertises or otherwise solicits clients or business; hires staff or employees; uses business stationary or other similar materials; files the business as a corporation, limited liability company, partnership, or other type of business association with a state government; establishes a formal or informal association with an existing business; hires a management company; and the nature and number of its investment properties;

(3) Employment with a person or entity who registered as a lobbyist or lobbyist organization pursuant to 2 U.S.C 1603(a) and engages in lobbying activity concerning the Department;

(4) Employment as an officer or director with a Department-approved mortgagee, a lending institution, or an organization that services securities for the Department; or

(5) Employment with the Federal Home Loan Bank System or any affiliate thereof.

(b) *Exceptions to employment prohibitions.* The prohibitions set forth in paragraph (a) of this section do not apply to:

(1) Serving as an officer or a member of the Board of Directors of:

(i) A Federal Credit Union;

(ii) A cooperative, condominium association, or homeowners association for a housing project that is not subject to regulation by the Department or, if so regulated, in which the employee personally resides; or

(iii) An entity designated in writing by the Designated Agency Ethics Official.

(2) Holding a real estate agent's license; however, use of the license is limited as provided by paragraph (c) of this section.

(c) *Prior approval requirement.* (1) Employees, except special Government employees, shall obtain the prior written approval of an Agency Ethics Official before accepting compensated or uncompensated employment:

(i) As an officer, director, trustee, or general partner of, or in any other position of authority with a prohibited source, as defined at 5 CFR 2635.203(d);

(ii) With a state or local government;

(iii) In the same professional field as that of the employee's official position; or

(iv) As a real estate agent in relation to purchasing or selling a single family property for use as the employee's primary residence, or the primary residence of the employee's immediate family member.

(2) Approval shall be granted unless the conduct is inconsistent with 5 CFR part 2635 or this part.

(d) *Liaison representative.* An employee designated to serve in an official capacity as the Department's liaison representative to an outside organization is not engaged in an outside activity to which this section applies. Notwithstanding, an employee may be designated to serve as the Department's liaison representative only as authorized by law, and as approved by the Department under applicable procedures.

**§ 7501.106 Bureau instructions and designation of separate agency component.**

(a) *Bureau instructions.* With the concurrence of the Designated Agency Ethics Official, the Bureau Ethics Counselor is authorized, consistent with 5 CFR 2635.105(c), to designate Deputy Bureau Ethics Counselors, to

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make a determination, issue explanatory guidance, and establish procedures necessary to implement this part, subpart I of 5 CFR part 2634, and 5 CFR part 2635 for the Bureau.

(b) *Designation of separate agency component.* Pursuant to 5 CFR 2635.203(a),

the Office of the Inspector General is designated as a separate agency for purposes of the regulations contained in subpart B of 5 CFR part 2635, governing gifts from outside sources; and 5 CFR 2635.807, governing teaching, speaking, or writing.